

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

JAMES W. SMITH

Plaintiff,

v.

**CITY OF PHILADELPHIA,
PHILADELPHIA PRISONS SYSTEM,
THOMAS COSTELLO, and
EARL HATCHER**

Defendants.

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**CIVIL ACTION
NO. 02-CV-3683**

ORDER

AND NOW, this _____ day of _____, 2002, upon consideration of defendants' Partial Motion to Dismiss the Amended Complaint, plaintiff's response thereto, and all other papers and proceedings herein, it is ORDERED that Count II of plaintiff's Amended Complaint is dismissed in its entirety with prejudice.

BY THE COURT:

STEWART DALZELL, J.